

<p align="center">4 LEGAL ASPECTS AND TESTIMONY</p>	<p align="center">Page 1 of 4</p>
<p align="center">Division of Forensic Science</p> <p align="center">TRACE EVIDENCE TRAINING MANUAL</p>	<p align="center">Amendment Designator:</p>
	<p align="center">Effective Date: 29-March-2004</p>
<p align="center">4 LEGAL ASPECTS AND TESTIMONY</p> <p>4.1 Introduction to Legal Aspects</p> <p>4.1.1 Objectives</p> <p>Through completion of this module the trainee will develop the theoretical knowledge to be conversant in:</p> <ul style="list-style-type: none"> • The Federal Rules of Evidence as related to expert testimony; • The Code of Virginia as related to admissibility of Certificates of Analysis; • The admissibility of scientific tests to include the difference between “Frye” and “Daubert”; • Types of subpoenas; • Types of evidence, to include: direct evidence, circumstantial evidence, physical evidence, and scientific evidence; • The difference between individual characteristics and class characteristics and types of evidence displaying each; and, • Courtroom procedures, to include: <ul style="list-style-type: none"> ○ Oath, ○ Sequestering of witnesses, ○ <i>Ex parte</i> communications of witnesses, ○ Examination: <ul style="list-style-type: none"> ▪ Direct examination, ▪ Cross examination, ▪ Qualifying questions, ▪ Court acceptance as a qualified examiner, ▪ Use of reference materials, ▪ Use of literary articles, ▪ Use of visual aids, ▪ Use of opposing expert witnesses, ○ Recognition and Identification of Evidence, ○ Chain of custody, ○ Certificate of Analysis, ○ Explanations of examinations, ○ Conclusions <p>4.1.2 Required Readings</p> <p>4.2.1 <u>The Code of Virginia</u>, Michie Press (most recently annotated version available); also, http://leg1.state.va.us/000/src.htm.</p> <p>§ 9.1-117. Division of Forensic Science; duties.</p> <p>§ 9.1-121. Rights of accused person or his attorney to results of investigation or to investigation.</p> <p>§ 9.1-122. Reexamination by independent experts</p> <p>§ 19.2-187. Admission into evidence of certain certificates of analysis.</p> <p>§ 19.2-187.01. Certificate of analysis as evidence of chain of custody of material described therein.</p> <p>§ 19.2-187.2. Procedure for subpoena duces tecum of analysis evidence.</p> <p>§ 19.2-187.1. Right to examine person performing analysis or involved in chain of custody.</p> <p>§ 54.1-3431. Admission into evidence of certain certificates of analysis.</p> <p>4.2.2 <u>Federal Rules of Evidence</u> on expert testimony, Article VII.</p> <p>4.1.3 Questions</p> <p>The trainee will provide written answers to the following questions:</p>	

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<div> <ul style="list-style-type: none"> Define the following terms: <ul style="list-style-type: none"> Direct evidence Circumstantial evidence Physical evidence Scientific evidence Individual characteristics Class characteristics Subpoena duces tecum Describe the difference between testimony by a lay witness and testimony by an expert witness. Describe the difference between an objection that has been overruled and one that has been sustained. <div> <div>4.1.4</div> <div>Practical Exercises</div> </div> <div> <div>4.1.4.1</div> <div>The trainer and the trainee will discuss the topics listed in the objectives as they relate to legal aspects.</div> </div> <div> <div>4.1.4.2</div> <div>The trainee will search the Legislative Information System at a minimum using “forensic science” on the search line.</div> </div> <div> <div>4.1.5</div> <div>Evaluation</div> </div> <div> <div>4.1.5.1</div> <div>The trainer will review the written answers to the questions with the trainee.</div> </div> <div> <div>4.1.5.2</div> <div>The trainer and the trainee will review and discuss the pertinent points of each of the required readings.</div> </div> <div> <div>4.1.5.3</div> <div>Review of practical exercises.</div> </div> <div> <div>4.2</div> <div>Introduction to Testimony Skills</div> </div> <div> <div>4.2.1</div> <div>Objectives</div> </div> <div> <p>Through completion of this module the trainee will have developed and demonstrated theoretical knowledge and/or practical skills to:</p> <ul style="list-style-type: none"> Present appropriate courtroom demeanor as it relates to direct eye contact with the trier of fact; Present appropriate courtroom demeanor as it relates to protocol in addressing the trier of fact; Dress professionally; Maintain composure on the witness stand; Be aware of verbal inflections and body language; Respond to questions in a clear, concise and accurate manner; Answer technical questions in layman’s terms; Maintain unquestionable ethical standards and conduct; Prepare for court with good note taking and documentation skills; Prepare for court with good communication skills; and Understand the purpose and protocol of pretrial conferences. </div> <div> <div>4.2.2</div> <div>Required Readings</div> </div> <div> <div>4.2.2.1</div> <div>Burke, J. L., “Testifying in Court,” <i>The Legal Digest</i>, September 1975, pp. 8 – 13.</div> </div> <div> <div>4.2.2.2</div> <div>Hodge, E. and Blackburn, B. “Courtroom Demeanor,” <i>AFTE Journal</i>, pp. 7–14.</div> </div> </div>	

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<div>4.2.2.3 Kogan, J.D., "On Being a Good Expert Witness in a Criminal Case", <i>Journal of Forensic Science</i>, Vol. 23, No. 1, January 1978, pp. 190-200.</div> <div>4.2.2.4 Kuzmack, Nicholas T., "Legal Aspects of Forensic Science," <i>Forensic Science Handbook</i>, Saferstein, Richard, ed., Prentice-Hall, New York, NY, 1982, pp. 1-27.</div> <div>4.2.2.5 Moenssens, A. A., Moses, R. E., Inbau, F. E., <i>Scientific Evidence in Criminal Cases</i>, The Foundation Press, Inc., Mineola, 1973, pp. 1-58 and 267-280.</div> <div>4.2.2.6 National District Attorneys Association, <i>Trial Technique: Predicate Questions</i>, 2nd ed, N.A.D.A., Alexandria, VA, 1998, pp. 32-38.</div> <div>4.2.2.7 Tanton, R. L., "Jury Preconceptions and Their Effect on Expert Scientific Testimony," <i>Journal of Forensic Science</i>, 1979, Vol. 24, p. 681-691.</div> <div>4.2.3 Questions</div> <div>The trainee will provide written answers to the following questions:</div> <div> <ul style="list-style-type: none"> • Define voir dire. • State your name. • Where are you employed? • What position do you hold? • How long have you been employed by the Division of Forensic Science? • What are your duties? • What is your educational background? • Do you have any specialized training in forensic science? • Have you ever testified as an expert in Virginia courts? </div> <div>4.2.4 Practical Exercises</div> <div>4.2.4.1 The trainer and the trainee will discuss the topics listed in the objectives as they relate to testimony.</div> <div>4.2.4.2 The trainee will complete an electronic version of the ASCLD-LAB Statement of Qualifications form.</div> <div>4.2.4.3 The trainee will prepare the answers to the section 4.2.3 questions in a format suitable for distribution to attorneys as qualifying questions.</div> <div>4.2.4.4 The trainee will complete mini-mock trial questioning involving qualifying information.</div> <div>4.2.5 Evaluation</div> <div>4.2.5.1 The trainer will review the written answers to the questions with the trainee.</div> <div>4.2.5.2 The trainer and the trainee will review and discuss the pertinent points of each of the required readings.</div> <div>4.2.5.3 Review of practical exercises.</div> <div>4.3 Reading List</div> <div>4.3.1 Burke, J. L., "Testifying in Court," <i>The Legal Digest</i>, September 1975.</div> <div>4.3.2 <u>Code of Virginia</u>, Michie Press.</div>	

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<p>4.3.2 <u>Federal Rules of Evidence</u>, Article VII.</p> <p>2.0.0 Hodge, E. and Blackburn, B. "Courtroom Demeanor," <i>AFTE Journal</i>.</p> <p>3.0.0 Kogan, J.D., "On Being a Good Expert Witness in a Criminal Case", <i>Journal of Forensic Science</i>, Vol. 23, No. 1, January 1978.</p> <p>4.3.3 Moenssens, A. A., Moses, R. E., Inbau, F. E., <u>Scientific Evidence in Criminal Cases</u>, The Foundation Press, Inc., Mineola, 1973.</p> <p>4.3.4 National District Attorneys Association, <u>Trial Technique: Predicate Questions</u>, 2nd ed., N.D.A.A., Alexandria, VA, 1998.</p> <p>4.3.5 Saferstein, Richard, ed., <u>Forensic Science Handbook</u>, Prentice-Hall, Inc., New York, NY, 1982.</p> <p>7.0.0 Tanton, R. L., "Jury Preconceptions and Their Effect on Expert Scientific Testimony," <i>Journal of Forensic Science</i>, 1979, Vol. 24, pp. 681-691.</p> <p style="text-align: right;">◀End</p>	